

MONTANA LEGISLATIVE HISTORY

Chapter 290 ~~19~~ 2011

Bill H 265 S _____ Original bill & history ☒ C

H. Committee on ^{① Business & Labor}
^{② re-referred to:} Transportation

Hearing Date(s) 2-4 _____ C

2-9 _____ C

_____ C

_____ C

Date Out 2-9 _____ C

S. Committee on ^{① Business & Labor, re-referred to}
^② Highways

Hearing Date(s) 3/10 _____ C

3-24 _____ C

_____ C

_____ C

Date Out 3-24

Did this bill originate in an interim committee? _____ Yes _____ No

Committee _____

Report _____

There are no minutes for House Business & Labor or
Senate Business, Labor & Economic Affairs.

TRANSMITTED TO SENATE
 2/22 REFERRED TO BUSINESS, LABOR, AND ECONOMIC AFFAIRS
 3/10 HEARING
 3/17 Tabled in COMMITTEE
 DIED IN STANDING COMMITTEE

HB 265 INTRODUCED BY VANCE

LC2025 DRAFTER: CAMPBELL

PROHIBIT INSURER FROM DISREGARDING COST ITEM IDENTIFIED BY ESTIMATING SYSTEM

1/14	INTRODUCED		
1/17	REFERRED TO BUSINESS AND LABOR		
1/19	REREFERRED TO TRANSPORTATION		
2/04	HEARING		
2/09	COMMITTEE EXEC ACTION—BILL PASSED	11	2
2/10	COMMITTEE REPORT—BILL PASSED		
2/15	2ND READING PASSED	79	21
2/16	3RD READING PASSED	78	20

2/21	TRANSMITTED TO SENATE		
3/02	REFERRED TO BUSINESS, LABOR, AND ECONOMIC AFFAIRS		
3/10	REREFERRED TO HIGHWAYS AND TRANSPORTATION		
3/10	HEARING		
3/24	COMMITTEE EXEC ACTION—CONCURRED AS AMD	9	3
3/24	COMMITTEE REPORT—CONCURRED AS AMD		
3/31	2ND READING CONCURRED	48	2
4/01	3RD READING CONCURRED	47	3

4/18	RETURNED TO HOUSE WITH AMENDMENTS		
4/18	2ND READING SENATE AMDS CONCURRED	74	26
4/19	3RD READING PASSED AS AMENDED BY SENATE	79	20
4/19	SENT TO ENROLLING		
4/20	RETURNED FROM ENROLLING		
4/21	SIGNED BY SPEAKER		
4/25	SIGNED BY PRESIDENT		
4/26	TRANSMITTED TO GOVERNOR		
4/28	SIGNED BY GOVERNOR		
4/28	CHAPTER NUMBER ASSIGNED		
	CHAPTER NUMBER 290		
	EFFECTIVE DATE: 4/28/2011 - ALL SECTIONS		

HB 266 INTRODUCED BY SANDS

LC1738 DRAFTER: WEISS

INCREASE STATE CONTRIBUTIONS FOR CERTAIN EMPLOYEES IN OPTIONAL RETIREMENT

12/20 FISCAL NOTE PROBABLE
 1/14 INTRODUCED
 1/14 FISCAL NOTE REQUESTED
 1/17 REFERRED TO STATE ADMINISTRATION
 1/22 FISCAL NOTE RECEIVED
 1/22 FISCAL NOTE SIGNED
 1/25 FISCAL NOTE PRINTED
 1/26 HEARING
 2/16 Tabled in COMMITTEE
 3/25 MISSED DEADLINE FOR APPROPRIATION BILL TRANSMITTAL
 DIED IN STANDING COMMITTEE

HB 267 INTRODUCED BY SANDS

LC0280 DRAFTER: O'CONNELL

REVISE DAY-CARE LICENSING REQUIREMENTS TO PROMOTE EARLY CHILDHOOD HEALTH

1/14 INTRODUCED
 1/17 REFERRED TO HUMAN SERVICES
 2/04 HEARING
 2/10 Tabled in COMMITTEE
 2/24 MISSED DEADLINE FOR GENERAL BILL TRANSMITTAL
 DIED IN STANDING COMMITTEE

HB 268 INTRODUCED BY KLOCK

LC1038 DRAFTER: CAMPBELL

REVISE LAWS ASSOCIATED WITH BAD CHECK FEES

1/14	INTRODUCED		
1/17	REFERRED TO BUSINESS AND LABOR		
1/27	HEARING		
1/27	COMMITTEE EXEC ACTION—BILL PASSED	21	0
1/27	COMMITTEE REPORT—BILL PASSED		

1 HOUSE BILL NO. 265

2 INTRODUCED BY G. VANCE

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT AN INSURANCE COMPANY MAY NOT
5 UNILATERALLY AND ARBITRARILY DISREGARD A REPAIR OPERATION OR COST IDENTIFIED BY AN
6 ESTIMATING SYSTEM THAT THE INSURER AND AN AUTOMOBILE BODY REPAIR BUSINESS OR
7 LOCATION HAVE AGREED TO UTILIZE IN DETERMINING THE COST OF REPAIR; AND AMENDING
8 SECTION 33-18-224, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11
12 **Section 1.** Section 33-18-224, MCA, is amended to read:

13 **"33-18-224. Designation of specific automobile body repair businesses prohibited.** (1) (a) An
14 insurance company, including its producers and adjusters, that issues or renews a policy of insurance in this state
15 covering, in whole or in part, a motor vehicle may not:

16 (i) require that a claimant under the policy use a particular automobile body repair business or location
17 for an estimate or a repair; ~~or~~

18 (ii) engage in any act or practice that intimidates, coerces, or threatens a claimant or that provides an
19 incentive or inducement for a claimant to use a particular automobile body repair business or location; or

20 (iii) unilaterally and arbitrarily disregard a repair operation or cost identified by an estimating system that
21 the insurer and an automobile body repair business or location have agreed to utilize in determining the cost of
22 repair.

23 (b) An insurance company, including its producers and adjusters, that issues or renews a policy of
24 insurance in this state covering, in whole or in part, a motor vehicle may have access to the motor vehicle for
25 purposes of preparing a competitive estimate.

26 (2) (a) Except as provided in subsection (2)(b), if an insurance company has direct repair programs with
27 automobile body repair businesses or locations, the insurance company may not limit the number of automobile
28 body repair businesses or locations with whom it maintains direct repair programs.

29 (b) An insurance company may limit the number of automobile body repair businesses or locations
30 participating in the insurance company's direct repair program to those automobile body repair businesses or

1 locations that comply with the provisions of subsection (2)(c). An insurance company is not required to establish
2 a direct repair program in a particular market area in which the insurance company's number of policyholders
3 does not support establishing a direct repair program with any automobile body repair business or location.

4 (c) Upon request, the insurance company shall provide, without prejudice or bias, the claimant with a
5 list that includes all automobile body repair businesses or locations that are reasonably close or convenient to
6 the claimant and willing to provide services and that meet the insurance company's criteria regarding whether
7 the automobile body repair business or location:

8 (i) possesses the equipment necessary to undertake repairs;

9 (ii) undertakes training of management and technical personnel with respect to repair information and
10 the claims process;

11 (iii) agrees to perform quality repairs at the market price and that meet reasonable industry repair
12 standards;

13 (iv) agrees to warrant the quality of work, including refinishing, in writing to the claimant, for a period of
14 not less than 1 year from the date of repair;

15 (v) agrees to inspection of its repairs and services by the insurance company and agrees that the
16 insurance company may terminate the direct repair program with the automobile body repair business or location
17 if the repairs and services are below the standards of quality required by the insurance company; and

18 (vi) if requested, agrees to execute an agreement with the insurance company that may contain additional
19 criteria that are not designed to unfairly limit the number of automobile body repair businesses or locations with
20 whom the insurance company maintains direct repair programs. The additional criteria may include criteria
21 determined to be necessary by the insurance company and designed to ensure that the automobile body repair
22 business or location has the necessary estimating systems and programs and equipment to communicate
23 electronically with the insurance company and that the automobile body repair business or location has taken
24 steps to ensure the privacy of the insurance company and the claimant.

25 (d) If the claimant requests the list provided for in subsection (2)(c), the insurance company shall inform
26 the claimant that the claimant may use an automobile body repair business or location at the sole discretion of
27 the claimant.

28 (3) For the purposes of this section, an incentive or inducement does not include:

29 (a) providing a claimant with the list provided for in subsection (2)(c); or

30 (b) referring to a warranty issued by an automobile body repair business or location.

(4) The claimant may use an automobile body repair business or location at the claimant's sole discretion, and the insurance company shall pay for the reasonable and necessary cost of the automobile body repair services for covered damages, less any deductible under the terms of the policy. This section does not require an insurer to pay more for automobile body repair services than the market price, as defined in 33-18-222.

(5) If the claimant uses an automobile body repair business or location that is not on a list provided for in subsection (2)(c), the insurance company may not be held liable for any repair work performed by the automobile body repair business or location chosen by the claimant.

(6) It is unlawful for an automobile body repair business or location to charge or agree to charge a claimant more than an uninsured customer for any automobile body repair service.

(7) An insurance company that contracts with an independent adjuster may not be held liable for the independent adjuster's failure to comply with the terms of this section.

(8) For purposes of this section:

(a) "automobile body repair business or location" does not include a business or location that exclusively provides automobile glass replacement, glass repair services, or glass products;

(b) "claimant" means the person seeking repair of a motor vehicle whether that person is the insured person or a third party making a claim against the insurer."

NEW SECTION. Section 2. Effective date. [This act] is effective on passage and approval.

- END -

5

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 62nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON TRANSPORTATION

Call to Order: Chair Gordon Vance, on February 4, 2011 at 3:00 PM, in Room 455 Capitol

ROLL CALL

Members Present:

Rep. Gordon Vance, Chair (R)
Rep. Lee Randall, Vice Chair (R)
Rep. Carolyn Squires, Vice Chair (D)
Rep. Tom Berry (R)
Rep. Edward Greef (R)
Rep. Krayton Kerns (R)
Rep. Steve Lavin (R)
Rep. Jerry O'Neil (R)
Rep. Matthew M. Rosendale Sr (R)
Rep. Frank Smith (D)
Rep. Kathy Swanson (D)

Members Excused: Rep. Elsie Arntzen (R)
Rep. Diane Sands (D)

Members Absent: None

Staff Present: Stephanie Fletcher, Committee Secretary
Megan Moore, Legislative Branch

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted: HB 264, 2/4/2011; HB 265, 2/4/2011

Executive Action: HB 290

00:34:29 Rep. Berry
00:34:34 Rep. Randall

Closing by Sponsor:

00:34:46 Rep. Vance
00:38:07 Rep. Randall

HEARING ON HB 265

Opening Statement by Sponsor:

00:38:12 Rep. Gordon Vance (R), HD 67, opened the hearing on HB 265, Prohibit insurer from disregarding cost item identified by estimating system.

Proponents' Testimony:

00:39:00 Bruce Halcro
00:42:02 Larry Stammen
00:46:03 Donna Gabel
00:47:40 Rep. Max Yates, owner of a repair and body shop.
00:53:46 Mike Mitchell, Mitchell Crash Repair
00:55:18 Janet Chaney, Montana Crash Repair Specialist

EXHIBIT(trh28a04)

EXHIBIT(trh28a05)

00:57:39 Rep. Randall
00:57:44 Paul Flores, Rick's Auto Body, Missoula
00:59:01 Sen. Sonju

EXHIBIT(trh28a06)

01:02:35 Rep. Randall

Opponents' Testimony:

01:02:44 Jacqueline Lenmark, AIA

EXHIBIT(trh28a07)

01:07:46 Greg VanHorssen
01:14:19 Rep. Smith left the room.
01:18:53 Rep. Randall
01:19:01 Dwight Easton, Farmers Insurance Company
01:19:28 Rep. Smith returned.
01:19:44 Rep. Randall

Informational Testimony:

01:19:56 John Bendy, former Insurance Adjuster

Questions from Committee Members and Responses:

01:25:01	Rep. Greef
01:27:10	John Bendy
01:29:35	Rep. Greef
01:29:46	John Bendy
01:29:58	Rep. Greefs
01:30:11	Bruce Halcro
01:32:06	Rep. Smith
01:33:26	Bruce Halcro
01:33:33	Rep. Smith
01:34:10	Rep. Lavin
01:35:06	Jacqueline Lenmark
01:35:56	Rep. Lavin
01:36:13	Jacqueline Lenmark
01:37:02	Rep. Rosendale
01:37:23	Greg VanHorssen
01:37:31	Rep. Rosendale
01:37:39	Greg VanHorssen
01:38:25	Rep. Rosendale
01:38:52	Mike Mitchell
01:39:07	Rep. Rosendale
01:39:25	Mike Mitchell
01:39:29	Rep. Randall
01:39:35	Rep. O'Neil
01:39:59	Sen. Sonju
01:40:02	Rep. O'Neil
01:40:37	Sen. Sonju
01:40:43	Rep. O'Neil
01:41:51	Sen. Sonju
01:42:01	Rep. O'Neil
01:42:11	Sen. Sonju
01:43:00	Rep. O'Neil
01:43:06	Sen. Sonju
01:43:16	Rep. O'Neil
01:43:23	Sen. Sonju
01:43:32	Rep. O'Neil
01:43:46	Sen. Sonju
01:44:03	Rep. O'Neil
01:44:49	Sen. Sonju
01:45:46	Rep. Randall
01:46:17	Bruce Halcro
01:46:21	Rep. Randall

Closing by Sponsor:

01:48:14 Rep. Vance

EXECUTIVE ACTION ON HB 290

01:50:36 **Motion:** Rep. Randall moved that **HB 290 DO PASS.**
EXHIBIT(trh28a08)

01:51:03 Rep. Randall

01:51:28 **Substitute Motion/Vote:** Rep. O'Neil made a substitute motion that **HB 290 BE TABLED.** Motion carried 10-3 by roll call vote with Rep. Sands, Rep. Squires and Rep. Swanson voting no. Rep. Arntzen and Rep. Sands voted by proxy.

HOUSE OF REPRESENTATIVES
Roll Call
TRANSPORTATION COMMITTEE

DATE: 2-4-2011

<u>NAME</u>	<u>PRESENT</u>	<u>ABSENT/ EXCUSED</u>
REP. LEE RANDALL, VICE CHAIR	✓	
REP. STEVE LAVIN	✓	
REP. FRANK SMITH	✓	
REP. JERRY O'NEIL	✓	
REP. KATHY SWANSON	✓	
REP. ELSIE ARNTZEN		ctv
REP. DIANE SANDS		ctv
REP. CAROLYN SQUIRES, VICE CHAIR	✓	W
REP. TOM BERRY	✓	
REP. KRAYTON KERNS	✓	
REP. EDWARD GREEF	✓	
REP. MATTHEW ROSENDALE	✓	
REP. GORDON VANCE, CHAIR	✓	

Janet Chaney

EXHIBIT 4

DATE 2-4-2011

HB 365

Subject: FW: leg.

From: Tuuri, Rick [Audatex - Americas]
Sent: Wednesday, January 26, 2011 5:49 PM
To: Capital Collision
Subject: RE: leg.

Hi Bruce,

As we have discussed, Audatex has no issue with this bill as written, and will neither support nor oppose this piece of legislation. The key is, as we know, "as written". Any modifications would require review, just to be certain.

I appreciate working with you and your keeping me in the loop.

I hope that helps.

Sincerely,

Rick

Rick Tuuri
Vice President, Industry Relations



Intelligence. Built In.

From: Capital Collision [mailto:capitalcollision@qwestoffice.net]
Sent: Thursday, January 20, 2011 11:39 AM
To: Tuuri, Rick [Audatex - Americas]
Subject: leg.

Rick,
Here is a copy of the Bill as written - at this time we do not anticipate any changes, however I will contact you immediately if anything different happens. I would be most appreciative if you could send me something from Audatex stating they would not oppose the Bill as written. Any thing you could do to help we would be very thankful for.

Respectfully,

Bruce Halcro
Owner
Capital Collision Center
406-442-8611 Office
406-439-6841 Cell

Janet Chaney

EXHIBIT 5
DATE 2-4-2011
HB 265

From: Bruce Yungkans [BYungkans@cccis.com]
Sent: Wednesday, February 02, 2011 11:49 AM
To: Capital Collision
Cc: janet Chaney
Subject: Re: leg

Categories: Red Category

Bruce, Janet -

We do not anticipate opposing MT HB0265 as proposed in the attachment .Should the language of the bill change, however, we may modify our position.

Regards,
Bruce Yungkans
Senior Product Manager/Collision Estimating
CCC Information Services / 562-565-6838
12610 Park Plaza Drive
Cerritos, CA 90703-8558
byungkans@cccis.com
vision for the road ahead™

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"Capital Collision" <capitalcollision@qwestoffice.net>

To "Bruce Yungkans" <byungkans@cccis.com>

cc "janet Chaney" <janet_chaney@earthlink.net>

01/20/2011 11:54 AM

Subject leg

Bruce,

Attached is our Data Bill as written for our 2011 Legislature, could you please review with the powers that be and let us know if is something CCC would not oppose. We are getting close to a hearing and we want to make sure that what happened in 2009 Legislature does not happen again. We would be most appreciative if you could supply us with something in writing from CCC. We don't anticipate any change to the verbiage in this Bill however if something changes I will let you know immediately.

I thank you in advance for your attention to this.

Respectfully,

Bruce Halcro
Owner
Capital Collision Center
President - Montana Collision Repair Specialists
406-442-8611 Office

EXHIBIT 6
DATE 2-9-2011
HB 265

2010 Minnesota Statutes

72B.092 MOTOR VEHICLE INSURANCE ADJUSTMENTS; PROHIBITIONS.

Subdivision 1. **Prohibitions on insurer.** No adjuster or insurer, director, officer, broker, agent, attorney-in-fact, employee, or other representative of an insurer shall in collision cases:

- (1) limit the freedom of an insured or claimant to choose the shop;
- (2) require that an insured or claimant present the claim or the automobile for loss adjustment or inspection at a "drive-in" claim center or any other similar facility solely under the control of the insurer;
- (3) engage in boycotts, intimidation or coercive tactics in negotiating repairs to damaged motor vehicles which they insure or are liable to claimants to have repaired;
- (4) attempt to secure, except in an emergency, the insured's or claimant's signature authorizing the party securing the signature to act in behalf of the insured or claimant in selection of a repair shop facility;
- (5) adjust a damage appraisal of a repair shop when the extent of damage is in dispute without conducting a physical inspection of the vehicle;
- (6) specify the use of a particular vendor for the procurement of parts or other materials necessary for the satisfactory repair of the vehicle. This clause does not require the insurer to pay more than a reasonable market price for parts of like kind and quality in adjusting a claim; or
- (7) unilaterally and arbitrarily disregard a repair operation or cost identified by an estimating system, which an insurer and collision repair facility have agreed to utilize in determining the cost of repair.

Subd. 2. **Boycotts.** No motor vehicle repair shop shall in any way coerce, or intimidate a motor vehicle owner to boycott an insurer's "drive-in" claim center or similar facility.

Subd. 3. **Owner's signature.** No motor vehicle repair shop shall attempt to secure, except in an emergency, the vehicle owner's signature authorizing the party securing the signature to act in behalf of the owner in selection of a repair shop.

Subd. 4. **Access to repair shop.** An insurer's representative shall not be unreasonably denied access to a motor vehicle repair shop during normal business hours for the purpose of inspecting or reinspecting damaged vehicles.

Subd. 5. **Storage and towing charges.** When a damaged vehicle is towed to a motor vehicle repair shop, the storage and towing charges shall not exceed the usual and customary charges for the towing and storage of undamaged vehicles in the area except if the vehicle, due to its damaged condition, requires special handling in the towing or storage, an added charge may be made.

History: 1980 c 456 s 3; 1986 c 444; 2007 c 80 s 1; 2008 c 284 s 1



EXHIBIT 7
DATE 2-4-201
HB 265

6111 Bollinger Canyon Road Suite 200
San Ramon CA 94583
(775) 824-0502
www.audatex.com

**STATEMENT
From
Audatex, a Solera Company**

House Bill 286 – An Act providing that an insurance company may not ignore or disregard a repair operation or cost identified by an estimating system that the insurer and an automobile body repair business or location have agreed to utilize in determining the cost of repair.

Senate Business and Labor Committee

March 13, 2009

Audatex has been providing collision repair estimating solutions to collision repair businesses, insurance companies and independent adjusters since 1970. Audatex's experience in this industry, along with ongoing labor studies and research combine to provide one of the most comprehensive databases in the industry.

However, Audatex recognizes that every collision, resulting damages, and appropriate repair method is a unique situation. The Audatex estimating system is an accurate, but complex and flexible tool designed to assist professional estimators, in the collision repair and insurance industries, to make accurate decisions on the best method to repair a specific vehicle, not as a substitute for their experience and expertise.

The following statement is included in Audatex's Database Reference Manual:

*"The labor supplied by Audatex is intended for use as a **guide for collision repair**. Labor allotments suggested by Audatex estimates are for the replacement of new and undamaged parts. Additional allowances are provided for optional equipment supplied by the vehicle manufacturer by selecting the appropriate options and parts. **Because each vehicle's collision damage is unique, automation cannot cover every situation. The flexibility of the Audatex system, coupled with the estimate preparer's knowledge and expertise, provides for adjustment of any estimate to meet the needs presented by each collision situation.**"*

Because Audatex relies on the expertise of repair professionals and adjusters, Audatex also incorporates a "Request for Review" process through which our customers provide feedback on parts, pricing, labor and other data further demonstrating that the estimating application is a tool and needs to remain flexible to adapt to many different repair situations.

Audatex believes that House Bill 286 would restrict the use of an intentionally flexible tool resulting in inaccurate damage assessments, and strongly urges your rejection of House Bill 286.

MONTANA House of Representatives
Visitors Register
HOUSE TRANSPORTATION COMMITTEE

Friday, February 4, 2011

HB 265 - Prohibit insurer from disregarding cost item identified by estimating system

Sponsor: Representative Gordon Vance

PLEASE PRINT

[illegible]

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 62nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON TRANSPORTATION

Call to Order: Chair Gordon Vance, on February 9, 2011 at 3:00 PM, in Room 455
Capitol

ROLL CALL

Members Present:

Rep. Gordon Vance, Chair (R)
Rep. Lee Randall, Vice Chair (R)
Rep. Carolyn Squires, Vice Chair (D)
Rep. Tom Berry (R)
Rep. Edward Greef (R)
Rep. Krayton Kerns (R)
Rep. Steve Lavin (R)
Rep. Jerry O'Neil (R)
Rep. Matthew M. Rosendale Sr (R)
Rep. Frank Smith (D)
Rep. Kathy Swanson (D)

Members Excused: Rep. Diane Sands (D)
Rep. Elsie Arntzen (R)

Members Absent: None

Staff Present: Stephanie Fletcher, Committee Secretary
Megan Moore, Legislative Branch

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Executive Action: HB 264
HB 265

EXECUTIVE ACTION ON HB 264

00:01:13 Chairman Vance

00:02:12 **Motion:** Rep. Randall moved that **HB 264 DO PASS.**

Discussion:

00:02:20 Rep. Smith

00:02:49 Rep. Berry

00:03:23 **Vote:** Motion carried 11-2 by voice vote with Rep. Berry and Rep. Kerns voting no. Rep. Arntzen and Rep. Sands voted by proxy.

EXECUTIVE ACTION ON HB 265

00:04:12 **Motion:** Rep. Randall moved that **HB 265 DO PASS.**

Discussion:

00:04:20 Rep. Berry

00:06:09 Rep. O'Neil

00:06:20 Chairman Vance

00:06:25 Rep. Berry

00:06:50 **Vote:** Motion carried 11-2 by voice vote with Rep. Berry and Rep. Kerns voting no. Rep. Arntzen and Rep. Sands voted by proxy.

HOUSE OF REPRESENTATIVES
Roll Call
TRANSPORTATION COMMITTEE

DATE: 2.9.2011

<u>NAME</u>	<u>PRESENT</u>	<u>ABSENT/ EXCUSED</u>
REP. LEE RANDALL, VICE CHAIR	✓	
REP. STEVE LAVIN	✓	
REP. FRANK SMITH	✓	
REP. JERRY O'NEIL	✓	
REP. KATHY SWANSON	✓	
REP. ELSIE ARNTZEN		Exc ✓
REP. DIANE SANDS		Exc
REP. CAROLYN SQUIRES, VICE CHAIR	✓	
REP. TOM BERRY	✓	
REP. KRAYTON KERNS	✓	
REP. EDWARD GREEF	✓	✓
REP. MATTHEW ROSENDALE	✓	
REP. GORDON VANCE, CHAIR	✓	

**AUTHORIZED
COMMITTEE PROXY**

I request to be excused from the Transportation

Committee because of other commitments. I desire to leave my proxy vote with:

Vice Chair Rands //

Indicate Bill number and your vote Aye or No. If there are amendments, list them by name and number under the bill and indicate a separate vote for each amendment.

[illegible]

Rep.

(Signature)

Date _____

**AUTHORIZED
COMMITTEE PROXY**

I request to be excused from the

Committee because of other commitments. I desire to leave my proxy vote with:

Indicate Bill number and your vote Aye or No. If there are amendments, list them by name and number under the bill and indicate a separate vote for each amendment.

BILL/AMENDMENT

AYE NO

BILL/AMENDMENT

AYE NO

[illegible][illegible]

Rep.

(Signature)

Date _____

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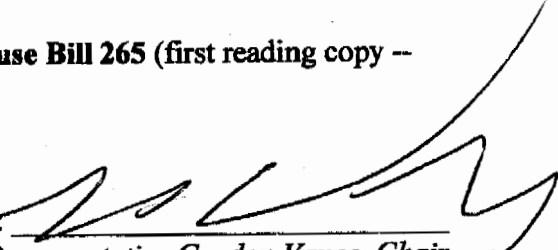


HOUSE STANDING COMMITTEE REPORT

February 9, 2011
Page 1 of 1

Mr. Speaker:

We, your committee on **Transportation** recommend that **House Bill 265** (first reading copy -- white) do pass.

Signed: 

Representative Gordon Vance, Chair

- END -

Committee Vote:

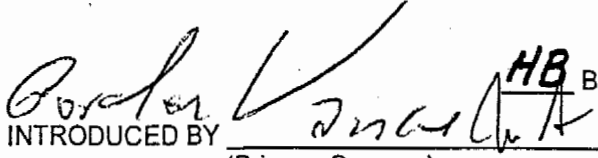
Yes 11, No 2

Fiscal Note Required ☐

HB0265001SC.hgh

11 9Am
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 **HB** BILL NO. **265**
INTRODUCED BY _____
(Primary Sponsor)

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT AN INSURANCE COMPANY MAY NOT UNILATERALLY AND ARBITRARILY DISREGARD A REPAIR OPERATION OR COST IDENTIFIED BY AN ESTIMATING SYSTEM THAT THE INSURER AND AN AUTOMOBILE BODY REPAIR BUSINESS OR LOCATION HAVE AGREED TO UTILIZE IN DETERMINING THE COST OF REPAIR; AND AMENDING SECTION 33-18-224, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 33-18-224, MCA, is amended to read:

"33-18-224. Designation of specific automobile body repair businesses prohibited. (1) (a) An

insurance company, including its producers and adjusters, that issues or renews a policy of insurance in this state covering, in whole or in part, a motor vehicle may not:

(i) require that a claimant under the policy use a particular automobile body repair business or location for an estimate or a repair; or

(ii) engage in any act or practice that intimidates, coerces, or threatens a claimant or that provides an incentive or inducement for a claimant to use a particular automobile body repair business or location; or

(iii) unilaterally and arbitrarily disregard a repair operation or cost identified by an estimating system that the insurer and an automobile body repair business or location have agreed to utilize in determining the cost of repair.

(b) An insurance company, including its producers and adjusters, that issues or renews a policy of insurance in this state covering, in whole or in part, a motor vehicle may have access to the motor vehicle for purposes of preparing a competitive estimate.

(2) (a) Except as provided in subsection (2)(b), if an insurance company has direct repair programs with automobile body repair businesses or locations, the insurance company may not limit the number of automobile body repair businesses or locations with whom it maintains direct repair programs.

(b) An insurance company may limit the number of automobile body repair businesses or locations participating in the insurance company's direct repair program to those automobile body repair businesses or

locations that comply with the provisions of subsection (2)(c). An insurance company is not required to establish a direct repair program in a particular market area in which the insurance company's number of policyholders does not support establishing a direct repair program with any automobile body repair business or location.

(c) Upon request, the insurance company shall provide, without prejudice or bias, the claimant with a list that includes all automobile body repair businesses or locations that are reasonably close or convenient to the claimant and willing to provide services and that meet the insurance company's criteria regarding whether the automobile body repair business or location:

(i) possesses the equipment necessary to undertake repairs;

(ii) undertakes training of management and technical personnel with respect to repair information and the claims process;

(iii) agrees to perform quality repairs at the market price and that meet reasonable industry repair standards;

(iv) agrees to warrant the quality of work, including refinishing, in writing to the claimant, for a period of not less than 1 year from the date of repair;

(v) agrees to inspection of its repairs and services by the insurance company and agrees that the insurance company may terminate the direct repair program with the automobile body repair business or location if the repairs and services are below the standards of quality required by the insurance company; and

(vi) if requested, agrees to execute an agreement with the insurance company that may contain additional criteria that are not designed to unfairly limit the number of automobile body repair businesses or locations with whom the insurance company maintains direct repair programs. The additional criteria may include criteria determined to be necessary by the insurance company and designed to ensure that the automobile body repair business or location has the necessary estimating systems and programs and equipment to communicate electronically with the insurance company and that the automobile body repair business or location has taken steps to ensure the privacy of the insurance company and the claimant.

(d) If the claimant requests the list provided for in subsection (2)(c), the insurance company shall inform the claimant that the claimant may use an automobile body repair business or location at the sole discretion of the claimant.

(3) For the purposes of this section, an incentive or inducement does not include:

(a) providing a claimant with the list provided for in subsection (2)(c); or

(b) referring to a warranty issued by an automobile body repair business or location.

(4) The claimant may use an automobile body repair business or location at the claimant's sole discretion, and the insurance company shall pay for the reasonable and necessary cost of the automobile body repair services for covered damages, less any deductible under the terms of the policy. This section does not require an insurer to pay more for automobile body repair services than the market price, as defined in 33-18-222.

(5) If the claimant uses an automobile body repair business or location that is not on a list provided for in subsection (2)(c), the insurance company may not be held liable for any repair work performed by the automobile body repair business or location chosen by the claimant.

(6) It is unlawful for an automobile body repair business or location to charge or agree to charge a claimant more than an uninsured customer for any automobile body repair service.

(7) An insurance company that contracts with an independent adjuster may not be held liable for the independent adjuster's failure to comply with the terms of this section.

(8) For purposes of this section:

(a) "automobile body repair business or location" does not include a business or location that exclusively provides automobile glass replacement, glass repair services, or glass products;

(b) "claimant" means the person seeking repair of a motor vehicle whether that person is the insured person or a third party making a claim against the insurer."

NEW SECTION. Section 2. Effective date. [This act] is effective on passage and approval.

- END -

MINUTES

MONTANA SENATE 62nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON HIGHWAYS AND TRANSPORTATION

Call to Order: Chair Llew Jones, on March 10, 2011 at 3:00 PM, in Room 405 Capitol

ROLL CALL

Members Present:

Sen. Llew Jones, Chairman (R)
Sen. Jon Sonju, Vice Chairman (R)
Sen. Ron Arthun (R)
Sen. Anders Blewett (D)
Sen. Edward Buttrey (R)
Sen. Mary Caferro (D)
Sen. Jim Keane (D)
Sen. Carmine Mowbray (R)
Sen. Gene Vuckovich (D)

Members Excused:

Sen. Bruce Tutvedt (R)
Sen. David E. Wanzonried (D)
Sen. Ryan Zinke (R)

Members Absent:

None

Staff Present:

Kirk Lundby, Committee Secretary
Rachel Weiss, Legislative Branch

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted: HB 218, 3/4/2011; HB 265, 3/3/2011; HB 270, 3/4/2011;
HB 302. 3/4/2011
Executive Action: HB 251 Do Concur As Amended
HB 254 Do Concur
HB 259 Do Concur
HB 270 Do Concur

HEARING ON HB 265

Opening Statement by Sponsor:

01:49:31 Rep. Gordon Vance (R), HD 67, opened the hearing on HB 265, Prohibit insurer from disregarding cost item identified by estimating system.

Proponents' Testimony:

01:51:50 Drew Geiger, representing Montana Collision Repair Specialists (MCRS)

01:52:44 Bruce Halcro, Owner, Capitol Collision Center (CCC)

EXHIBIT(his54a05)

EXHIBIT(his54a06)

01:56:32 Olaf Smith

01:58:20 Todd Litton

01:59:17 Donna Gabel

EXHIBIT(his54a07)

02:02:56 Pam Cayer

EXHIBIT(his54a08)

02:06:23 Gene Dziza

EXHIBIT(his54a09)

02:07:14 Jeff Wisher

02:08:20 Paul Flores

EXHIBIT(his54a10)

02:09:18 Mike Mitchell, Owner, Mitchell's Crash Repair

02:09:30 Brad Meuli

02:10:23 Brendan Schaoning

02:10:55 Rep. Max Yates, HD 74

Opponents' Testimony:

02:11:32 Jacqueline Lenmark, representing American Insurance Association (AIA)

02:15:07 Dwight Easton, representing Farmers Insurance Group (FIG)

02:17:06 Greg VanHorsen, representing State Farm Insurance (SFI)

Informational Testimony:

None

Questions from Committee Members and Responses:

02:23:50 Sen. Keane

02:24:29 Drew Geiger, MCRS

02:26:19 Sen. Keane

02:26:43 Drew Geiger

02:27:47 Sen. Blewett

02:28:39 Drew Geiger

02:29:10 Sen. Blewett

02:29:31 Drew Geiger

02:29:40 Bruce Halcro, CCC

SENATE COMMITTEE ON HIGHWAYS AND TRANSPORTATION

March 10, 2011

PAGE 8 of 9

02:30:37 Sen. Buttrey
02:31:18 Jacqueline Lenmark, AIA
02:32:59 Sen. Buttrey
02:33:24 Jacqueline Lenmark
02:34:21 Sen. Caferro
02:34:42 Rep. Vance
02:35:11 Bruce Halcro, CCC
02:35:17 Sen. Caferro
02:35:32 Bruce Halcro
02:38:06 Sen. Caferro
02:38:13 Bruce Halcro
02:40:01 Sen. Arthun
02:40:19 Greg VanHorssen, SFI
02:40:52 Sen. Arthun
02:41:46 Sen. Keane
02:42:06 Bruce Halcro
02:42:44 Sen. Keane
02:43:19 Bruce Halcro
02:43:24 Sen. Keane
02:43:45 Rachel Weiss, LSD
02:44:09 Sen. Buttrey
02:44:54 Rep. Vance
02:45:39 Sen. Keane
02:45:53 Rep. Vance

Closing by Sponsor:

02:46:12 Rep. Vance

SENATE COMMITTEE ON HIGHWAYS AND TRANSPORTATION

March 10, 2011

PAGE 9 of 9

ADJOURNMENT

Adjournment:
02:47:56

Kirk Lundby, Secretary

kl

Additional Documents:

EXHIBIT(his54aad.pdf)

MONTANA STATE SENATE

ROLL CALL

HIGHWAYS AND TRANSPORTATION COMMITTEE

DATE: 3 - 10, 2011

NAME	PRESENT	ABSENT/ EXCUSED
Chairman Jones	X	
Vice Chair Sonju	X	
Senator Arthun	X	
Senator Blewett	X	
Senator Buttrey	X	
Senator Caferro	X	
Senator Keane	X	
Senator Mowbray	X	
Senator Tutvedt		X
Senator Vuckovich	X	
Senator Wanzenried		X
Senator Zinke		X

12 Committee Members

Janet Chaney

STATE HIGHWAYS AND TRANSPORTATION

From: Bruce Yungkans [BYungkans@cccis.com]
Sent: Wednesday, February 02, 2011 11:49 AM
To: Capital Collision
Cc: Janet Chaney
Subject: Re: leg

EXHIBIT NO. 5
DATE: 3-10-2011
BILL NO. HB 265

Categories: Red Category

Bruce, Janet -

We do not anticipate opposing MT HB0265 as proposed in the attachment. Should the language of the bill change, however, we may modify our position.

Regards,
Bruce Yungkans
Senior Product Manager/Collision Estimating
CCC Information Services / 562-565-6838
12610 Park Plaza Drive
Cerritos, CA 90703-8558
byungkans@cccis.com
vision for the road ahead™

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"Capital Collision" <capitalcollision@qwestoffice.net>

To "Bruce Yungkans" <byungkans@cccis.com>

cc "Janet Chaney" <janet_chaney@earthlink.net>

Subject leg

01/20/2011 11:54 AM

Bruce,

Attached is our Data Bill as written for our 2011 Legislature, could you please review with the powers that be and let us know if is something CCC would not oppose. We are getting close to a hearing and we want to make sure that what happened in 2009 Legislature does not happen again. We would be most appreciative if you could supply us with something in writing from CCC. We don't anticipate any change to the verbiage in this Bill however if something changes I will let you know immediately.

I thank you in advance for your attention to this.

Respectfully,

Bruce Halcro
Owner
Capital Collision Center
President - Montana Collision Repair Specialists
406-442-8611 Office



15030 Avenue of Science, Suite 100
San Diego, CA 92128
(858) 946-1264
www.audatex.com

Memorandum

February 24, 2011

To: Rick Tuuri
Vice President, Industry Relations

From: Diane Klund
Manager, Government Affairs

Re: Montana House Bill 265

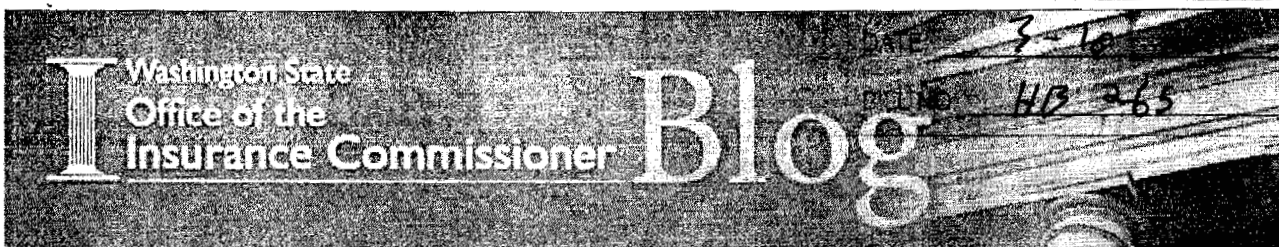
Audatex currently takes no position in favor nor opposed to HB 265 as available on the Montana Legislative website on this date, which amends Section 33-18-224 of the MCA:

"33-18-224. Designation of specific automobile body repair businesses prohibited. (1) (a) An insurance company, including its producers and adjusters, that issues or renews a policy of insurance in this state covering, in whole or in part, a motor vehicle may not:

(i) require that a claimant under the policy use a particular automobile body repair business or location for an estimate or a repair; or

(ii) engage in any act or practice that intimidates, coerces, or threatens a claimant or that provides an incentive or inducement for a claimant to use a particular automobile body repair business or location; or

(iii) unilaterally and arbitrarily disregard a repair operation or cost identified by an estimating system that the insurer and an automobile body repair business or location have agreed to utilize in determining the cost of repair.



[Home](#) [Our mission: consumer protection](#) [Insurance Consumer Hotline](#)

Wednesday, February 17, 2010

Percentage of uninsured motorists, by state

It's a question that our office gets periodically: What percentage of Washington drivers have no insurance?

The short answer is that we're not sure. Our office regulates insurers, agents and brokers, but not the consumers who actually buy the coverage.

But the Pennsylvania-based Insurance Research Council does an annual estimate, based on data collected from nine major auto insurers representing about half the private passenger auto market in the United States.

The states with the highest percentages, the IRC estimates, are in the South. The lowest states are about evenly split between the Midwest, intermountain West and the Northeast.

The most recent report uses 2007 data. Washington came in fairly high, with an estimated 18 percent of drivers -- one in six -- uninsured. Oregon and Idaho were much lower: 11 percent and 9 percent, respectively. The top two spots were Mississippi, with 28 percent, and New Mexico, with 29 percent.

Here is the IRC's breakdown of states, by percentage of uninsured drivers:

Alabama = 26%

Alaska = 13%

Arizona = 18%

Arkansas = 15%

California = 18%

Colorado = 15%

Connecticut = 9%

D.C. = 15%

Delaware = 10%

Florida = 23%

Search This Blog

po

Washington state Insurance Commissioner Mike



About this blog

This is the official blog of the [Washington state insurance commissioner's office](#).

Got a question? Contact WAinsuranceblog@oic.wa.gov

If you have an insurance question -- and live in Washington state -- call our hotline 6900.

If you need help but live outside Washington state please contact your state insurance department. [Here's a map](#) for more info.

Lastly, the legal stuff: If you're looking for a company or product on which to base an endorsement. But you'll

Here is the IRC's breakdown of states, by percentage of uninsured drivers:

Alabama = 26%

Alaska = 13%

Arizona = 18%

Arkansas = 15%

California = 18%

Colorado = 15%

Connecticut = 9%

D.C. = 15%

Delaware = 10%

Florida = 23%

Georgia = 12%

Hawaii = 12%

Idaho = 9%

Illinois = 15%

Indiana = 14%

Iowa = 12%

Kansas = 10%

Kentucky = 16%

Louisiana = 12%

Maine = 4%

Maryland = 12%
Massachusetts = 1%
Michigan = 17%
Minnesota = 12%
Mississippi = 28%
Missouri = 14%
Montana = 15%
Nebraska = 8%
Nevada = 15%
New Hampshire = 11%
New Jersey = 8%
New Mexico = 29%
New York = 5%
North Carolina = 12%
North Dakota = 5%
Ohio = 16%
Oklahoma = 24%
Oregon = 11%
Pennsylvania = 7%
Rhode Island = 14%
South Carolina = 9%

South Dakota = 7%

Tennessee = 20%

Texas = 15%

Utah = 8%

Vermont = 6%

Virginia = 9%

Washington = 16%

West Virginia = 8%

Wisconsin = 15%

Wyoming = 9%



Car Insurance Rate Quotes

> ZIP code:

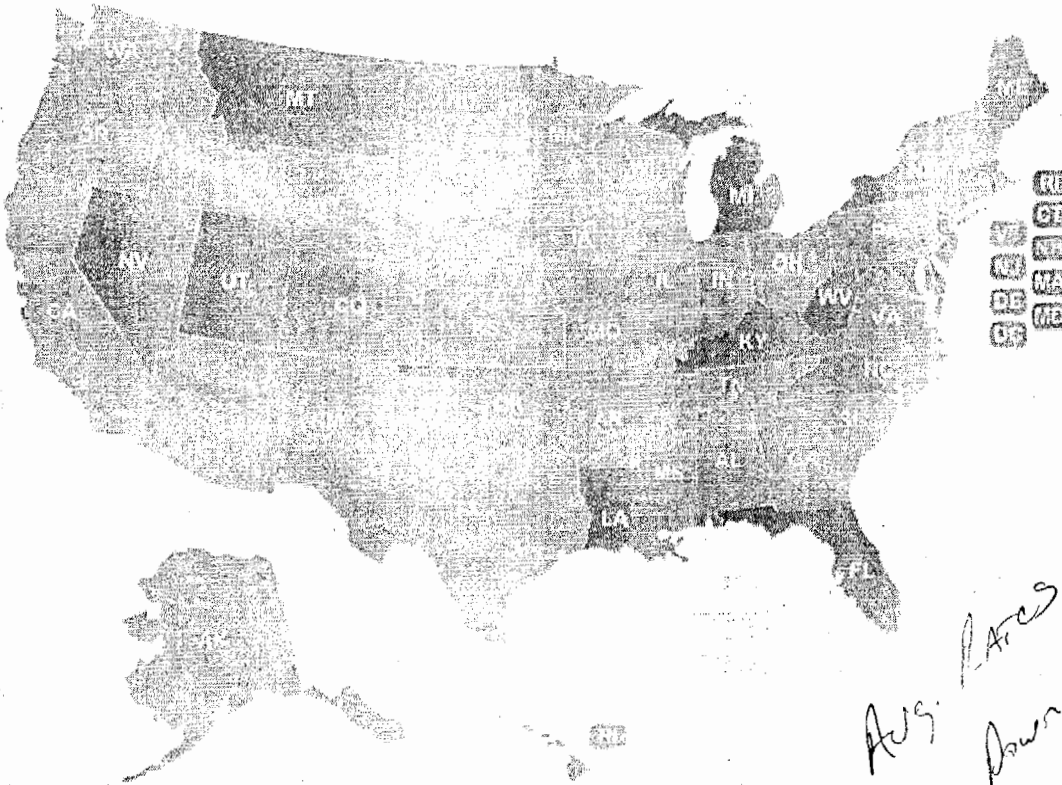
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» [Learning Center](#)» [CarInsurance.com Premium Index \(CPI\)](#)» [Average Premiums](#)

Average Auto Insurance Rates

State Average Rates - Compared To National Average Auto Insurance Rates



LEARN MORE ABOUT CPI

CPI Historical Average Premiums

You can read more about auto insurance rates on the [CarInsurance.com Premium Index](#) page. These are the historical premium trends for each state and nationally.

Location	2009	2010	2011	Annual Change	Dec-2010	Jan-2011	Monthly Change
National	\$1,736	\$1,539	\$1,441	6.36 %	\$1,472	\$1,441	2.10 %
Alaska	\$2,218	\$1,875	\$1,413	*	*	*	*
Alabama	\$1,421	\$1,239	\$1,323	6.77 %	\$1,337	\$1,323	1.04 %
Arkansas	\$1,283	\$1,203	\$1,185	1.49 %	\$1,187	\$1,185	0.16 %
Arizona	\$1,763	\$1,372	\$1,104	19.53 %	\$1,114	\$1,104	0.89 %
California	\$1,550	\$1,286	\$1,143	11.11 %	\$1,158	\$1,143	1.29 %
Colorado	\$1,631	\$1,349	\$1,209	10.37 %	\$1,151	\$1,209	5.03 %

Go to the
CPI page
for more
information

Connecticut	\$2,136	\$2,011	\$1,773	11.83 %	\$1,824	\$1,773	2.79 %
District of Columbia	\$2,437	\$2,282	\$1,998	*	*	*	*
Delaware	\$2,279	\$2,203	\$1,884	*	*	\$1,884	*
Florida	\$1,668	\$1,675	\$1,713	2.26 %	\$1,752	\$1,713	2.22 %
Georgia	\$1,558	\$1,362	\$1,329	2.42 %	\$1,271	\$1,329	4.56 %
Hawaii	\$1,354	\$1,120	\$1,126	*	*	*	*
Iowa	\$1,249	\$1,014	\$612	*	*	*	*
Idaho	\$1,411	\$1,156	\$1,044	*	*	*	*
Illinois	\$1,211	\$1,286	\$981	23.71 %	\$1,065	\$981	7.88 %
Indiana	\$1,716	\$1,243	\$984	20.83 %	\$874	\$984	12.58 %
Kansas	\$1,868	\$1,507	\$1,261	16.32 %	\$1,353	\$1,261	6.79 %
Kentucky	\$1,931	\$1,678	\$1,746	4.05 %	\$1,615	\$1,746	8.11 %
Louisiana	\$2,310	\$2,042	\$1,679	17.77 %	\$2,153	\$1,679	22.01 %
Maryland	\$2,296	\$2,112	\$1,846	12.59 %	\$1,906	\$1,846	3.14 %
Maine	\$1,408	\$1,129	\$1,024	*	*	*	*
Michigan	\$2,241	\$1,904	\$1,480	22.26 %	\$1,348	\$1,480	9.79 %
Minnesota	\$1,765	\$1,517	\$1,207	20.43 %	\$1,197	\$1,207	0.83 %
Missouri	\$1,610	\$1,396	\$1,087	22.13 %	\$1,145	\$1,087	5.06 %
Mississippi	\$1,419	\$1,197	\$1,117	6.66 %	\$1,103	\$1,117	1.26 %
Montana	\$1,583	\$1,440	\$1,519	*	*	*	*
North Carolina	\$1,550	\$1,353	\$1,205	10.93 %	\$1,257	\$1,205	4.13 %
North Dakota	\$1,375	\$1,257	\$1,310	*	*	*	*
Nebraska	\$1,386	\$1,380	\$1,095	*	*	*	*
New Hampshire	\$1,586	\$1,253	\$1,150	*	*	\$1,150	*
New Jersey	\$2,499	\$2,479	\$2,380	3.99 %	\$2,336	\$2,380	1.88 %
New Mexico	\$1,842	\$1,606	\$1,258	*	*	*	*
Nevada	\$2,029	\$1,781	\$1,560	12.40 %	\$1,558	\$1,560	0.12 %
New York	\$2,394	\$2,380	\$2,658	11.68 %	\$2,541	\$2,658	4.60 %
Ohio	\$1,392	\$1,212	\$922	23.92 %	\$1,172	\$922	21.33 %
Oklahoma	\$2,006	\$1,803	\$1,563	13.31 %	\$1,719	\$1,563	9.07 %
Oregon	\$1,722	\$1,475	\$1,143	22.50 %	\$1,212	\$1,143	5.69 %
Pennsylvania	\$1,988	\$1,692	\$1,401	17.19 %	\$1,437	\$1,401	2.50 %
Rhode Island	\$2,270	\$2,279	\$1,958	*	*	\$1,958	*
South Carolina	\$1,595	\$1,505	\$1,416	5.91 %	\$1,377	\$1,416	2.83 %
South Dakota	\$1,240	\$1,202	\$1,075	*	*	*	*
Tennessee	\$1,521	\$1,308	\$950	27.37 %	\$956	\$950	0.62 %
Texas	\$1,809	\$1,518	\$1,250	17.65 %	\$1,327	\$1,250	5.80 %
Utah	\$1,660	\$1,428	\$1,470	2.94 %	\$1,156	\$1,470	27.16 %
Virginia	\$1,441	\$1,306	\$1,065	18.45 %	\$1,141	\$1,065	6.66 %
Vermont	\$1,291	\$1,219	\$948	*	*	*	*
Washington	\$1,842	\$1,626	\$1,344	17.34 %	\$1,306	\$1,344	2.90 %
Wisconsin	\$1,531	\$1,167	\$1,113	4.62 %	\$1,101	\$1,113	1.08 %
West Virginia	\$1,960	\$1,837	\$1,600	*	*	\$1,600	*
Wyoming	\$1,417	\$1,394	\$984	*	*	*	*



STATE HIGHWAYS AND TRANSPORTATION	
EXHIBIT NO.	7
DATE	3-10-2011
	HB 265

Mr. Chairman Vance and Members of the Committee

I am an independent insurance agent in Billings, Montana.

I am in complete support HB 264 and HB 265 in protecting our customers, our employees and consumers.

HB 264 would allow agents, businesses, and consumers to file a complaint with the Auditor's office. We see code violations that affect our customers in a negative ways. Our consumers do not know code when it comes to their rights, therefore it would help us to help them.

Also be able to talk to the Insurance Dept about the issue and Provide them with all the Documents will speed up the complaint and help the Insurance Dept to be able to review the documents on timely bases! We want to make sure all done right on both sides of the issue these bills will help speed the process up for both side!

HB 265 would help eliminate the potential for consumers having to pay additional monies above their deductible.

I respectfully ask for your support of HB 264 and HB 265.

Thank You Very Much,

H. Ed Melcher
2331 Lewis Ave
Billings Mt 59102
406-656-1452
Frontier Insurance Solutions, Inc.



March 10, 2011

Dear Mr. Chairman and Members of the Committee

RE: SB 264 and SB 265

Underriner Motors in Billings Montana is a full service dealership including sales, serve, and collision repair. Our franchises include Honda, Hyundai, Buick and Volvo.

There are two pieces of legislation which I would like to support, specifically SB264 and SB265.

SB 264 provides businesses as well as consumers to file a complaint with the State Auditor's office when a code violation occurs.

SB 265 provides for the proper repair of a damaged vehicle. Currently, collision repair shops use estimating software purchased from one of three major software providers. At times, an insurer will decline to cover repairs that may be necessary for the safety of the vehicle, which results in customers that not only have to pay their deductible, but also those repairs rejected by the insurer.

Respectfully,

A handwritten signature in cursive script that reads 'Bill'.

William P. Underriner
President

It's all about you!

Billings Locations: 3643 Pierce Parkway • Billings, Montana 59106
1830 4th Avenue North • Billings, Montana 59101
Office 406.255.2350 • www.underriner.com

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35

DENNY MENHOLT

CHEVROLET  HUMMER

PHONE (406) 896-3000
WATS (800) 473-2282
FAX (406) 896-3980

3000 KING AVENUE WEST
POST OFFICE BOX 80430
BILLINGS, MONTANA 59108

Dear Mr. Chairman Vance and Members of the Committee,

My name is Denny Menholt. I am a member of the Montana Auto Dealers Association and the owner of the Denny Menholt Chevrolet, in Billings, MT and Brooks Hanna Ford Dealerships, in Butte, MT. I employ over 200 people in all aspects of automotive sales, service and auto body repair.

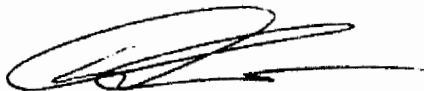
We are in complete support HB 264 and HB 265. This is to protect our customers our employees and all Montana consumers.

HB 264 will allow all Montana businesses as well as consumers to file a complaint with the Auditor's office. Many businesses often see code violations that affect consumers in a negative way. To date, there is no avenue to seek enforcement of code violation issues.

HB 265 is written to support a safe and economically sound collision repair. Insurers require usage of a database provider that identifies repair procedures. Many times, insurers then disallow or refuse to pay for these required procedures leaving the potential for unsafe repairs. Repairers then complete the required procedures, leaving no choice but to charge the consumer co-pay in addition to their deductible.

We respectfully ask for your support of HB 264 and HB 265.

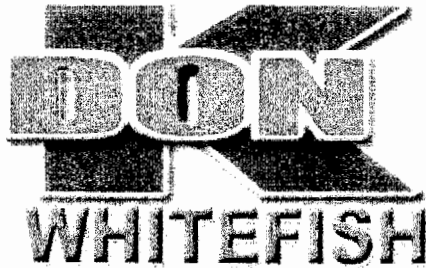
Thank You Very Much,



Denny Menholt
Denny Menholt Chevrolet

YOUR VOLUME DISCOUNT DEALER

40



6219 Hwy 93 S.
P.O. Box 1178
Whitefish, MT 6937
BUS: (406) 862-2571
FAX: (406) 862-4546

Dear Mr. Chairman and Members of the Committee.

My name is Donald Kaldschmidt, I am the President of the Montana Dealers Association and the owner of Don K Chevrolet, Subaru and now Chrysler, in Whitefish.

I have 60 employees in all aspects of automotive sales, service and auto body repairs.

We are in complete support HB 264 and HB 265. This is to protect our customers, our employees and all Montana consumers.

HB 264 will allow all Montana businesses, as well as consumers to file a complaint with the Auditor's Office. Many businesses often see code violations that affect consumers in a negative way. At this stage there is no way to seek enforcement of code violations issues.

HB 265 is written to support a safe and economically sound collision repair. Insurers require usage of a database provider that identifies repair procedures. Many times, insurers then disallow or refuse to pay for these required procedures. This leaves no choice but to charge the consumer co-pay in addition to their deductible.

We respectfully ask for your support on HB 264 and HB 265.

Mr. Chairman and Members of the Committee, thank you for your time and consideration.

A handwritten signature in black ink, appearing to be "Don Kaldschmidt".

Don Kaldschmidt
Don K Chevrolet/Subaru/Chrysler

you can

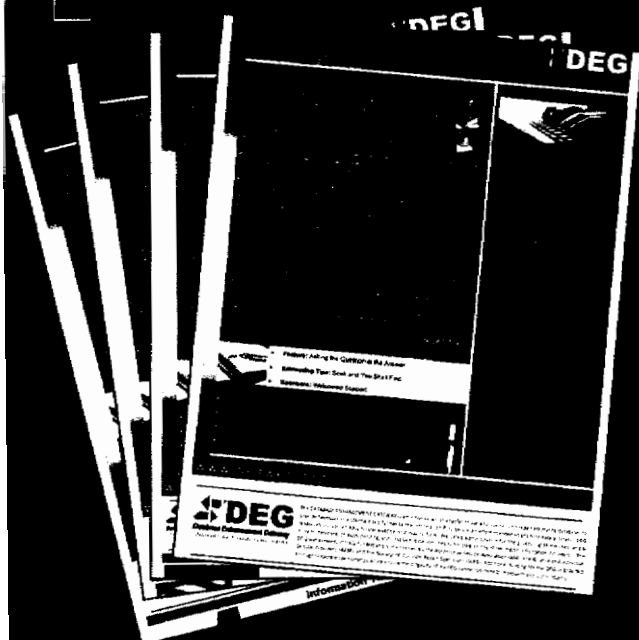
With

Provide valuable feedback on missing, unclear, or potentially inaccurate data to the Information Providers in the form of a DEG Database Inquiry

Receive timely responses from the DEG on both the status of your open inquiry and the Information Providers response resolving your inquiry

See all inquiries that have been processed with the DEG on our interactive database before resolutions to the inquiries are updated in the corrected software update release

Interact directly with the DEG dedicated administration who works on your behalf to process the inquiries.



DEG
Database Enhancement Gateway
- Advocates for Accurate Collision Data -

Please Place Stamp Here	HIGHWAYS AND TRANSPORTATION	
	EXHIBIT NO.	8
	DATE:	3-10-2011
	BILL NO.	4B 265

For more information the DEG can be reached at: (302)423-0207 | admin@degweb.org | PO Box 9198 Surprise, AZ 85374

The power of proactive
communication at your fingertips



DEG
Database Enhancement Gateway
- Advocates for Accurate Collision Data -

What if your feedback could help fix...

- missing footnotes
- inaccurate labor times
- missing parts
- incorrect Part numbers
- substrate identification

The Database Enhancement Gateway (DEG) is an initiative that was developed to help improve the quality and accuracy of collision repair estimates, through proactive feedback, enabling those who use collision repair estimating databases to provide feedback in a standardized format to the Information Providers.

Today's estimating databases are large and complex, and the task of building complete and accurate labor times and labor notes for the thousands of operations we perform on existing and newly introduced vehicle models is a difficult and ongoing challenge. This can at times result in information that does not accurately reflect the real world labor requirements of a repair operation which in turn can hinder the ability of an average estimator to consistently produce accurate repair estimates. The DEG is designed to offer estimating system users a more standardized and streamlined process for the generation of Database Inquiries.

DEG resources include an easy-to-use website and inquiry form, dedicated administration for the processing of inquiries, and a current database of both pending and resolved data inquiries submitted to the three major Information Providers.

The DEG was created, initially funded and is maintained by:



"I was shocked and thrilled to get a response so quickly! The DEG administrator has been nothing but helpful and I would encourage everyone to submit any inquiries that you may have regarding labor times and procedures. The process to submit the inquiry took me less than 10 minutes and it was well worth it. My technicians are very excited about this as I'm sure yours will be!" - Tucson, AZ

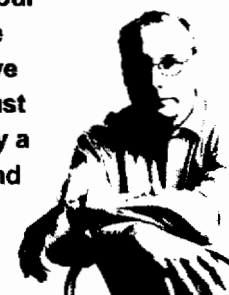


"Thanks for the update. It's satisfying to know the people in the shops can still make a difference!" - Tacoma, WA



"The DEG website works great and it is so easy to use. Our concern was sent in to the database provider and in a couple of days we had our answer. The replacement time was changed and the insurance company accepted the adjusted time. I'll be on this website every chance I get!" - Newark, DE

"I wanted to tell you how much I appreciate what the DEG has done for our company. For years we have had to work around the inaccuracies in the data we use to create estimates and repair orders. But now, each time we submit an inquiry through the DEG and receive the correction back in just days, we know we are one step closer to a better estimate and ultimately a smoother workflow. I hope all collision repairers will help themselves and our industry by using the DEG to keep the information providers up to date." - Burkeville, VA



For more information, or to submit your Database Inquiry please visit us at www.degweb.org

EXHIBIT NO. 9
DATE: 3-10-2011
I am a Platinum
level ICAR technician, which is the highest level of ICAR training for an individual. HB 265

My name is Gene Dziza. I own a body shop in Kalispell. I work hard to support my family of four kids and I work hard to do a nice job for my customer.

I also did time working as an insurance adjuster, so I have a very good grasp of the issue and feel I can view it well from both sides and I wouldn't take time off from my job to be over here if I didn't feel this was important.

One thing I'm not, is a paid speaker, so if you don't mind, I will just read my testimony as its pretty brief.

I don't write the factory recommended repair procedures, nor do I write the times and procedures in the required data bases. I just fix my customers cars, the best I can, using these procedures.

The other day, an adjuster for one of the major companies represented in this room, told me that structural adhesive was considered part of our paint materials expense. That's a lie. If I paint the roof, I get paid x amount of dollars for paint materials, for that specific roof. If I replace the roof, I get paid the same amount to paint it, but I also have to use a couple of tubes of structural adhesive at \$40 apiece, in addition to the paint materials. Why should I have to pass that cost on to my customer? The insurers owe it to my customer. Period.

Now I spend over \$600.00 per month for computerized estimating systems required by insurers for Direct Repair Programs. I have a hard time with insurers arbitrarily denying operations and/or materials deemed necessary by manufacturers and data base providers. I'm also having a hard time conceiving how insurers argue against this bill other than they just don't want to pay for procedures and materials deemed necessary, not by me, but by the vehicle manufacturer and the people that provide the data for the estimating systems. It seems absurd to me when you consider that according to my research, Property & Casualty Insurers realized a NET profit of 26.7 Billion in the first nine months of 2010.

Now, I am the past President of the Flathead Business and Industry Association and not a bigger bunch of free enterprise advocates exists. I'm a free enterprise kind of guy. But we have legislated in Montana that your constituents have to buy the product that insurers are selling. I think therefore, that this body is duty bound to provide some measure of protection to your constituents, in order to protect them from getting run over by an 800 TON insurance company. At the end of the day, I just don't know how you can say that this is not fair. It is fair and it is necessary.

Thank you so much for your time and dedication to serving your constituents.

Gene Dziza
98 Pleasant View Drive
Kalispell, MT 59901

Paul Flores

EXHIBIT NO. 10

From: Paul Flores
Sent: Friday, February 11, 2011 8:37 AM
To: Mark Teynor; Josh Larsen; Daun Smith; CRAIG BOWER
Cc: Tom ; Rick
Subject: FW: DEG Inquiry 3002 - Resolved
Attachments: DEG PRINT Inquiry.pdf

DATE: 3-10-2011

FILE NO. HB 265

All,

From time to time here and at MCRS meeting you will hear about the DEG. I hope that you all have had a chance to use it or at least go to the website to see what it has to offer. I have been meaning to send this email out to you all for quite some time now. This email was a successful resolution to an inquiry we submitted for labor time that was not listed in Motors for a structural part on a 2005 Honda Accord. Although it took about 11 Days to get the inquiry resolved it created a president that required the information provider to amend its database and provide labor. The process only took about 15 minutes of my time to gather the necessary information for the inquiry form, fill it out and submit it.

From: DEG Administration [mailto:Admin@DEGWeb.org]
Sent: Monday, January 10, 2011 9:13 PM
To: Paul Flores
Subject: DEG Inquiry 3002 - Resolved

Great news Paul!

Your inquiry was submitted to CCC by the DEG and we have been able to assist with a resolution. After researching the inquiry and corresponding with your Information Provider, CCC has proposed the resolution listed below which is scheduled to be added to the February 2011 DVD update. If you have any questions regarding this please feel free to contact the DEG at admin@degweb.org.

Proposed Resolution: MOTOR stated:

After review, the following changes have been made:

1. An estimated work time of 3.0 hours has been applied to the Stiffener.
2. A footnote has been applied to the Stiffener that states: "Time is after the aperture panel has been removed."

Once again, we would like to thank you for taking the time to bring this inquiry to our attention and would like you to know that your efforts to help improve the collision estimating data are very much appreciated. We hope you will choose to continue to use www.degweb.org for any inquiries you may have in the future.

Sincerely,
Database Enhancement Gateway

Bud Center Jr.
DEG Administration

302-423-0207
302-450-7214 Fax



Database Enhancement Gateway

- Advocates for Accurate Collision Data -

Database Inquiry

1/3/2011

Tracking Number	3002	Date Submitted to DEG	12/30/2010 4:37:06 PM
Name	Paul Flores	Date Submitted to IP	
Title	Operations Manager	Phone	4065495400
Company Name	Ricks Auto Body	Fax	
Address		Email Address	paul@ricksautobodymissoula.com

Vehicle & Database

Inquiry Category

- ☐ Missing Information
- ☐ Parts
- ☐ Procedure Page Issue
- ☒ Welded Panel Operations
- ☐ Non-Welded Part Operations
- ☐ Refinish Operations
- ☐ All Other

Year 2005 Make Honda Model Accord Body Style 4Dr Sedan

VIN 1HGCM66515A027606

Database Audatex ☐ CCC/Motor ☒ Mitchell ☐

Product Serial#(if applicable) 11972

Database Inquiry

AreaVehicle

A-Pillar

PartName

Stiffener (A-pillar reinforcement)

PartNumber

63120SDAA00ZZ

IssueSummary

No labor time listed in database

NumberWelds

11 plug welds, 4 spot welds

ProcedureSteps

none listed, time is after outer aperture panel (A-pillar) is removed.

SuggestedAction

List labor time required to replace part.

Notes

Files

MINUTES

MONTANA SENATE 62nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON HIGHWAYS AND TRANSPORTATION

Call to Order: Chair Llew Jones, on March 24, 2011 at 3:00 PM, in Room 405 Capitol

ROLL CALL

Members Present:

Sen. Llew Jones, Chairman (R)
Sen. Jon Sonju, Vice Chairman (R)
Sen. Ron Arthun (R)
Sen. Anders Blewett (D)
Sen. Edward Buttrey (R)
Sen. Mary Caferro (D)
Sen. Carmine Mowbray (R)
Sen. David E. Wanzenried (D)

Members Excused:

Sen. Jim Keane (D)
Sen. Bruce Tutvedt (R)
Sen. Gene Vuckovich (D)
Sen. Ryan Zinke (R)

Members Absent:

None

Staff Present:

Kirk Lundby, Committee Secretary
Rachel Weiss, Legislative Branch

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Executive Action: HB 195 Do Concur
HB 265 Do Concur As Amended
HB 302 Table
HB 594 Do Concur
SJ 16 Table

SENATE COMMITTEE ON HIGHWAYS AND TRANSPORTATION

March 24, 2011

PAGE 2 of 5

EXECUTIVE ACTION ON HB 195

00:01:08 **Motion:** Sen. Sonju moved that **HB 195 BE CONCURRED IN.**

Discussion:

00:01:26 Sen. Caferro

00:01:35 Chairman Jones

00:02:01 Sen. Caferro

00:02:09 **Vote:** Motion carried 8-0 by voice vote of those present and voting. Sen. Buttrey will carry the bill.

EXECUTIVE ACTION ON HB 265

00:02:54 **Motion:** Sen. Sonju moved that **HB 265 BE CONCURRED IN.**

00:03:00 **Motion:** Sen. Blewett moved that **HB 265 BE AMENDED.**

EXHIBIT(his66a01)

Discussion:

00:04:25 Vice Chair Sonju

EXHIBIT(his66a02)

00:04:48 Sen. Blewett

00:05:11 Vice Chair Sonju

00:05:18 Sen. Blewett withdrew motion that **HB 265 BE AMENDED.**

00:05:26 Vice Chair Sonju withdrew motion that **HB 265 BE CONCURRED IN.**

EXECUTIVE ACTION ON HB 594

00:05:50 **Motion:** Sen. Mowbray moved that **HB 594 BE CONCURRED IN.**

Discussion:

00:05:55 Sen. Tutvedt entered the committee room

00:06:05 Chairman Jones

00:06:35 Sen. Tutvedt

00:07:15 Sen. Buttrey

00:07:46 Chairman Jones

00:07:49 Sen. Vuckovich entered the committee room

00:07:59 Sen. Mowbray

00:08:48 **Vote:** Motion carried 10-2 by roll call vote with Sen. Arthun and Sen. Tutvedt voting no. Sen. Zinke voted by proxy. Sen. Mowbray will carry the bill.

SENATE COMMITTEE ON HIGHWAYS AND TRANSPORTATION

March 24, 2011

PAGE 3 of 5

EXECUTIVE ACTION ON HB 265

00:10:19 **Motion:** Sen. Sonju moved that **HB 265 BE CONCURRED IN.**

00:10:30 **Motion:** Sen. Blewett moved that **HB 265 BE AMENDED.**
(See exhibit 1)

Discussion:

00:10:54 Sen. Blewett
00:12:57 Vice Chair Sonju
00:14:07 Sen. Tutvedt left the committee room
00:14:36 Sen. Vuckovich
00:14:50 Vice Chair Sonju
00:15:24 Sen. Vuckovich
00:15:55 Bruce Halcro, Owner, Capitol Collision Center (CCC)
00:16:34 Sen. Buttrey
00:16:51 Vice Chair Sonju
00:17:39 Sen. Buttrey
00:18:03 Bruce Halcro, CCC
00:18:25 Jon Metropolis, representing Farmers Insurance Group (FIG)
00:19:59 Vice Chair Sonju
00:21:15 Jon Metropolis, FIG
00:22:20 Vice Chair Sonju
00:23:01 Chairman Jones
00:23:28 Sen. Keane
00:23:39 Chairman Jones
00:23:42 Sen. Keane
00:24:52 Sen. Blewett
00:27:01 Chairman Jones
00:27:58 Jon Metropolis
00:28:44 Sen. Mowbray

00:29:30 **Vote:** Motion carried 9-3 by roll call vote with Sen. Arthun, Sen. Jones and Sen. Zinke voting no. Sen. Tutvedt and Sen. Zinke voted by proxy.

00:31:52 **Motion:** Sen. Sonju moved that **HB 265 BE CONCURRED IN AS AMENDED.**

00:30:51 **Vote:** Motion carried 9-3 by roll call vote with Sen. Arthun, Sen. Jones and Sen. Zinke voting no. Sen. Tutvedt and Sen. Zinke voted by proxy. Sen. Sonju will carry the bill.

EXECUTIVE ACTION ON HB 302

00:31:07 **Motion:** Sen. Buttrey moved that **HB 302 BE CONCURRED IN.**

Discussion:

00:31:31 Sen. Blewett
00:32:09 Sen. Mowbray

MONTANA STATE SENATE

ROLL CALL

HIGHWAYS AND TRANSPORTATION COMMITTEE

DATE: 3 - 24, 2011

NAME	PRESENT	ABSENT/ EXCUSED
Chairman Jones	X	
Vice Chair Sonju	X	
Senator Arthun	X	
Senator Blewett	X	
Senator Buttrey	X	
Senator Caferro	X	
Senator Keane		X
Senator Mowbray	X	
Senator Tutvedt		X
Senator Vuckovich		X
Senator Wanzenried	X	
Senator Zinke		X

12 Committee Members

MONTANA STATE SENATE
Roll Call Vote
HIGHWAYS AND TRANSPORTATION COMMITTEE

DATE: 3-24-11 BILL NO HB 265 AMEND. NO. _____ MOTION NO. _____
 MOTION: Be Amended (exhibit #1)

<u>NAME</u>	<u>AYE</u>	<u>NO</u>	If Proxy Vote, check here & include signed Proxy Form with minutes
Senator Arthun		X	
Senator Blewett	X		
Senator Buttrey	X		
Senator Caferro	X		
Senator Keane	X		
Senator Mowbray	X		
Senator Tutvedt	X		X
Senator Vuckovich	X		
Senator Wanzenried	X		
Senator Zinke		X	X
Vice Chair Sonju	X		
Chairman Jones		X	

12 COMMITTEE MEMBERS

TOTAL VOTE: Aye: 9 No: 3

MONTANA STATE SENATE
Roll Call Vote
HIGHWAYS AND TRANSPORTATION COMMITTEE

DATE: 3-24-11 BILL NO HB 265 AMEND. NO. MOTION NO.

MOTION: Be Concurred In As Amended

<u>NAME</u>	<u>AYE</u>	<u>NO</u>	If Proxy Vote, check here & include signed Proxy Form with minutes
Senator Arthun		X	
Senator Blewett	X		
Senator Buttrey	X		
Senator Caferro	X		
Senator Keane	X		
Senator Mowbray	X		
Senator Tutvedt	X		X
Senator Vuckovich	X		
Senator Wanzenried	X		
Senator Zinke		X	X
Vice Chair Sonju	X		
Chairman Jones		X	

12 COMMITTEE MEMBERS

TOTAL VOTE: Aye: 9 No: 3

SENATE HIGHWAYS AND TRANSPORTATION

EXHIBIT NO. 1

Amendments to House Bill No. 265
3rd Reading Copy

DATE: 3-24-2011

BILL NO. H13 265

Requested by Senator Anders Blewett

For the Senate Highways and Transportation Committee

Prepared by Rachel Weiss
March 14, 2011 (2:26pm)

1. Title, page 1, line 5.
Strike: "AND ARBITRARILY"
2. Page 1, line 20.
Strike: "and arbitrarily"

- END -

Amendments to House Bill No. 265
3rd Reading Copy

EXHIBIT NO.

2

DATE:

3-24-2011

Requested by Senator Llew Jones

HB 265

For the Senate Highways and Transportation Committee

Prepared by Rachel Weiss
March 15, 2011 (12:49pm)

1. Page 1, line 22.

Following: "repair."

Insert: "For the purposes of this subsection, "arbitrarily" means
without a reasonable basis in fact."

- END -

**AUTHORIZED
SENATE COMMITTEE PROXY**

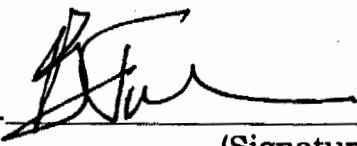
I, Senator Bruce Tutvedt, request to be excused from the
Highways and Transportation COMMITTEE

due to my other commitment. I desire to leave my proxy vote with:

Vice Chair Jon Sonju

Indicate Bill number and your vote Aye or No. If there are amendments, list them by name and number under the bill and indicate a separate vote for each amendment.

BILL/AMENDMENT	AYE	NO	BILL/AMENDMENT	AYE	NO
Amendment 26501	✓				
HB 265	✓				
HB 302 Table	✓				
SJ - Amend.	✓				
SJ 14 - Table	✓				

Sen. 

(Signature)

Date 3-24-2011

**AUTHORIZED
SENATE COMMITTEE PROXY**

I, Senator Zinke, request to be excused from the

Highways and Transportation COMMITTEE

due to my other commitment. I desire to leave my proxy vote with:

Zinke Sen. Santorum

Indicate Bill number and your vote Aye or No. If there are amendments, list them by name and number under the bill and indicate a separate vote for each amendment.

BILL/AMENDMENT	AYE	NO
HB 594	✓	
Amendment 26501		✓
HB 265	✓	✓
HB 302 Table		✓
SJ 1601		✓
SJ-Table		✓

BILL/AMENDMENT	AYE	NO

Sen. [Signature]
(Signature)

Date 3-24-2011



SENATE STANDING COMMITTEE REPORT

March 24, 2011

Page 1 of 1

Mr. President:

We, your committee on **Highways and Transportation** recommend that **House Bill 265** (third reading copy -- blue) **be concurred in as amended.**

Signed: _____

Senator Lew Jones, Chair

To be carried by Senator Jon Sonju

And, that such amendments read:

1. Title, page 1, line 5.

Strike: "AND ARBITRARILY"

2. Page 1, line 20.

Strike: "and arbitrarily"

- END -

Committee Vote:

Yes 9, No 3

Fiscal Note Required ☐

HB0265001SC03839.sdr

57
OK

HOUSE BILL NO. 265

INTRODUCED BY G. VANCE, SONJU

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT AN INSURANCE COMPANY MAY NOT UNILATERALLY ~~AND ARBITRARILY~~ DISREGARD A REPAIR OPERATION OR COST IDENTIFIED BY AN ESTIMATING SYSTEM THAT THE INSURER AND AN AUTOMOBILE BODY REPAIR BUSINESS OR LOCATION HAVE AGREED TO UTILIZE IN DETERMINING THE COST OF REPAIR; AND AMENDING SECTION 33-18-224, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 33-18-224, MCA, is amended to read:

"33-18-224. Designation of specific automobile body repair businesses prohibited. (1) (a) An insurance company, including its producers and adjusters, that issues or renews a policy of insurance in this state covering, in whole or in part, a motor vehicle may not:

(i) require that a claimant under the policy use a particular automobile body repair business or location for an estimate or a repair; ~~or~~

(ii) engage in any act or practice that intimidates, coerces, or threatens a claimant or that provides an incentive or inducement for a claimant to use a particular automobile body repair business or location; or

(iii) unilaterally and arbitrarily disregard a repair operation or cost identified by an estimating system that the insurer and an automobile body repair business or location have agreed to utilize in determining the cost of repair.

(b) An insurance company, including its producers and adjusters, that issues or renews a policy of insurance in this state covering, in whole or in part, a motor vehicle may have access to the motor vehicle for purposes of preparing a competitive estimate.

(2) (a) Except as provided in subsection (2)(b), if an insurance company has direct repair programs with automobile body repair businesses or locations, the insurance company may not limit the number of automobile body repair businesses or locations with whom it maintains direct repair programs.

(b) An insurance company may limit the number of automobile body repair businesses or locations participating in the insurance company's direct repair program to those automobile body repair businesses or

58

1 locations that comply with the provisions of subsection (2)(c). An insurance company is not required to establish
2 a direct repair program in a particular market area in which the insurance company's number of policyholders
3 does not support establishing a direct repair program with any automobile body repair business or location.

4 (c) Upon request, the insurance company shall provide, without prejudice or bias, the claimant with a
5 list that includes all automobile body repair businesses or locations that are reasonably close or convenient to
6 the claimant and willing to provide services and that meet the insurance company's criteria regarding whether
7 the automobile body repair business or location:

8 (i) possesses the equipment necessary to undertake repairs;

9 (ii) undertakes training of management and technical personnel with respect to repair information and
10 the claims process;

11 (iii) agrees to perform quality repairs at the market price and that meet reasonable industry repair
12 standards;

13 (iv) agrees to warrant the quality of work, including refinishing, in writing to the claimant, for a period of
14 not less than 1 year from the date of repair;

15 (v) agrees to inspection of its repairs and services by the insurance company and agrees that the
16 insurance company may terminate the direct repair program with the automobile body repair business or location
17 if the repairs and services are below the standards of quality required by the insurance company; and

18 (vi) if requested, agrees to execute an agreement with the insurance company that may contain additional
19 criteria that are not designed to unfairly limit the number of automobile body repair businesses or locations with
20 whom the insurance company maintains direct repair programs. The additional criteria may include criteria
21 determined to be necessary by the insurance company and designed to ensure that the automobile body repair
22 business or location has the necessary estimating systems and programs and equipment to communicate
23 electronically with the insurance company and that the automobile body repair business or location has taken
24 steps to ensure the privacy of the insurance company and the claimant.

25 (d) If the claimant requests the list provided for in subsection (2)(c), the insurance company shall inform
26 the claimant that the claimant may use an automobile body repair business or location at the sole discretion of
27 the claimant.

28 (3) For the purposes of this section, an incentive or inducement does not include:

29 (a) providing a claimant with the list provided for in subsection (2)(c); or

30 (b) referring to a warranty issued by an automobile body repair business or location.

(4) The claimant may use an automobile body repair business or location at the claimant's sole discretion, and the insurance company shall pay for the reasonable and necessary cost of the automobile body repair services for covered damages, less any deductible under the terms of the policy. This section does not require an insurer to pay more for automobile body repair services than the market price, as defined in 33-18-222.

(5) If the claimant uses an automobile body repair business or location that is not on a list provided for in subsection (2)(c), the insurance company may not be held liable for any repair work performed by the automobile body repair business or location chosen by the claimant.

(6) It is unlawful for an automobile body repair business or location to charge or agree to charge a claimant more than an uninsured customer for any automobile body repair service.

(7) An insurance company that contracts with an independent adjuster may not be held liable for the independent adjuster's failure to comply with the terms of this section.

(8) For purposes of this section:

(a) "automobile body repair business or location" does not include a business or location that exclusively provides automobile glass replacement, glass repair services, or glass products;

(b) "claimant" means the person seeking repair of a motor vehicle whether that person is the insured person or a third party making a claim against the insurer."

NEW SECTION. Section 2. Effective date. [This act] is effective on passage and approval.

- END -

HOUSE BILL NO. 265

INTRODUCED BY G. VANCE, SONJU

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT AN INSURANCE COMPANY MAY NOT UNILATERALLY AND ARBITRARILY DISREGARD A REPAIR OPERATION OR COST IDENTIFIED BY AN ESTIMATING SYSTEM THAT THE INSURER AND AN AUTOMOBILE BODY REPAIR BUSINESS OR LOCATION HAVE AGREED TO UTILIZE IN DETERMINING THE COST OF REPAIR; AND AMENDING SECTION 33-18-224, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 33-18-224, MCA, is amended to read:

"33-18-224. Designation of specific automobile body repair businesses prohibited. (1) (a) An insurance company, including its producers and adjusters, that issues or renews a policy of insurance in this state covering, in whole or in part, a motor vehicle may not:

(i) require that a claimant under the policy use a particular automobile body repair business or location for an estimate or a repair; or

(ii) engage in any act or practice that intimidates, coerces, or threatens a claimant or that provides an incentive or inducement for a claimant to use a particular automobile body repair business or location; or

(iii) unilaterally and arbitrarily disregard a repair operation or cost identified by an estimating system that the insurer and an automobile body repair business or location have agreed to utilize in determining the cost of repair.

(b) An insurance company, including its producers and adjusters, that issues or renews a policy of insurance in this state covering, in whole or in part, a motor vehicle may have access to the motor vehicle for purposes of preparing a competitive estimate.

(2) (a) Except as provided in subsection (2)(b), if an insurance company has direct repair programs with automobile body repair businesses or locations, the insurance company may not limit the number of automobile body repair businesses or locations with whom it maintains direct repair programs.

(b) An insurance company may limit the number of automobile body repair businesses or locations participating in the insurance company's direct repair program to those automobile body repair businesses or

locations that comply with the provisions of subsection (2)(c). An insurance company is not required to establish a direct repair program in a particular market area in which the insurance company's number of policyholders does not support establishing a direct repair program with any automobile body repair business or location.

(c) Upon request, the insurance company shall provide, without prejudice or bias, the claimant with a list that includes all automobile body repair businesses or locations that are reasonably close or convenient to the claimant and willing to provide services and that meet the insurance company's criteria regarding whether the automobile body repair business or location:

(i) possesses the equipment necessary to undertake repairs;

(ii) undertakes training of management and technical personnel with respect to repair information and the claims process;

(iii) agrees to perform quality repairs at the market price and that meet reasonable industry repair standards;

(iv) agrees to warrant the quality of work, including refinishing, in writing to the claimant, for a period of not less than 1 year from the date of repair;

(v) agrees to inspection of its repairs and services by the insurance company and agrees that the insurance company may terminate the direct repair program with the automobile body repair business or location if the repairs and services are below the standards of quality required by the insurance company; and

(vi) if requested, agrees to execute an agreement with the insurance company that may contain additional criteria that are not designed to unfairly limit the number of automobile body repair businesses or locations with whom the insurance company maintains direct repair programs. The additional criteria may include criteria determined to be necessary by the insurance company and designed to ensure that the automobile body repair business or location has the necessary estimating systems and programs and equipment to communicate electronically with the insurance company and that the automobile body repair business or location has taken steps to ensure the privacy of the insurance company and the claimant.

(d) If the claimant requests the list provided for in subsection (2)(c), the insurance company shall inform the claimant that the claimant may use an automobile body repair business or location at the sole discretion of the claimant.

(3) For the purposes of this section, an incentive or inducement does not include:

(a) providing a claimant with the list provided for in subsection (2)(c); or

(b) referring to a warranty issued by an automobile body repair business or location.

1 (4) The claimant may use an automobile body repair business or location at the claimant's sole
2 discretion, and the insurance company shall pay for the reasonable and necessary cost of the automobile body
3 repair services for covered damages, less any deductible under the terms of the policy. This section does not
4 require an insurer to pay more for automobile body repair services than the market price, as defined in 33-18-222.

5 (5) If the claimant uses an automobile body repair business or location that is not on a list provided for
6 in subsection (2)(c), the insurance company may not be held liable for any repair work performed by the
7 automobile body repair business or location chosen by the claimant.

8 (6) It is unlawful for an automobile body repair business or location to charge or agree to charge a
9 claimant more than an uninsured customer for any automobile body repair service.

10 (7) An insurance company that contracts with an independent adjuster may not be held liable for the
11 independent adjuster's failure to comply with the terms of this section.

12 (8) For purposes of this section:

13 (a) "automobile body repair business or location" does not include a business or location that exclusively
14 provides automobile glass replacement, glass repair services, or glass products;

15 (b) "claimant" means the person seeking repair of a motor vehicle whether that person is the insured
16 person or a third party making a claim against the insurer."

17
18 **NEW SECTION. Section 2. Effective date.** [This act] is effective on passage and approval.

19 - END -



AN ACT PROVIDING THAT AN INSURANCE COMPANY MAY NOT UNILATERALLY DISREGARD A REPAIR OPERATION OR COST IDENTIFIED BY AN ESTIMATING SYSTEM THAT THE INSURER AND AN AUTOMOBILE BODY REPAIR BUSINESS OR LOCATION HAVE AGREED TO UTILIZE IN DETERMINING THE COST OF REPAIR; AND AMENDING SECTION 33-18-224, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 33-18-224, MCA, is amended to read:

"33-18-224. Designation of specific automobile body repair businesses prohibited. (1) (a) An insurance company, including its producers and adjusters, that issues or renews a policy of insurance in this state covering, in whole or in part, a motor vehicle may not:

(i) require that a claimant under the policy use a particular automobile body repair business or location for an estimate or a repair; ~~or~~

(ii) engage in any act or practice that intimidates, coerces, or threatens a claimant or that provides an incentive or inducement for a claimant to use a particular automobile body repair business or location; or

(iii) unilaterally disregard a repair operation or cost identified by an estimating system that the insurer and an automobile body repair business or location have agreed to utilize in determining the cost of repair.

(b) An insurance company, including its producers and adjusters, that issues or renews a policy of insurance in this state covering, in whole or in part, a motor vehicle may have access to the motor vehicle for purposes of preparing a competitive estimate.

(2) (a) Except as provided in subsection (2)(b), if an insurance company has direct repair programs with automobile body repair businesses or locations, the insurance company may not limit the number of automobile body repair businesses or locations with whom it maintains direct repair programs.

(b) An insurance company may limit the number of automobile body repair businesses or locations participating in the insurance company's direct repair program to those automobile body repair businesses or

locations that comply with the provisions of subsection (2)(c). An insurance company is not required to establish a direct repair program in a particular market area in which the insurance company's number of policyholders does not support establishing a direct repair program with any automobile body repair business or location.

(c) Upon request, the insurance company shall provide, without prejudice or bias, the claimant with a list that includes all automobile body repair businesses or locations that are reasonably close or convenient to the claimant and willing to provide services and that meet the insurance company's criteria regarding whether the automobile body repair business or location:

(i) possesses the equipment necessary to undertake repairs;

(ii) undertakes training of management and technical personnel with respect to repair information and the claims process;

(iii) agrees to perform quality repairs at the market price and that meet reasonable industry repair standards;

(iv) agrees to warrant the quality of work, including refinishing, in writing to the claimant, for a period of not less than 1 year from the date of repair;

(v) agrees to inspection of its repairs and services by the insurance company and agrees that the insurance company may terminate the direct repair program with the automobile body repair business or location if the repairs and services are below the standards of quality required by the insurance company; and

(vi) if requested, agrees to execute an agreement with the insurance company that may contain additional criteria that are not designed to unfairly limit the number of automobile body repair businesses or locations with whom the insurance company maintains direct repair programs. The additional criteria may include criteria determined to be necessary by the insurance company and designed to ensure that the automobile body repair business or location has the necessary estimating systems and programs and equipment to communicate electronically with the insurance company and that the automobile body repair business or location has taken steps to ensure the privacy of the insurance company and the claimant.

(d) If the claimant requests the list provided for in subsection (2)(c), the insurance company shall inform the claimant that the claimant may use an automobile body repair business or location at the sole discretion of the claimant.

(3) For the purposes of this section, an incentive or inducement does not include:

(a) providing a claimant with the list provided for in subsection (2)(c); or

(b) referring to a warranty issued by an automobile body repair business or location.

(4) The claimant may use an automobile body repair business or location at the claimant's sole discretion, and the insurance company shall pay for the reasonable and necessary cost of the automobile body repair services for covered damages, less any deductible under the terms of the policy. This section does not require an insurer to pay more for automobile body repair services than the market price, as defined in 33-18-222.

(5) If the claimant uses an automobile body repair business or location that is not on a list provided for in subsection (2)(c), the insurance company may not be held liable for any repair work performed by the automobile body repair business or location chosen by the claimant.

(6) It is unlawful for an automobile body repair business or location to charge or agree to charge a claimant more than an uninsured customer for any automobile body repair service.

(7) An insurance company that contracts with an independent adjuster may not be held liable for the independent adjuster's failure to comply with the terms of this section.

(8) For purposes of this section:

(a) "automobile body repair business or location" does not include a business or location that exclusively provides automobile glass replacement, glass repair services, or glass products;

(b) "claimant" means the person seeking repair of a motor vehicle whether that person is the insured person or a third party making a claim against the insurer."

Section 2. Effective date. [This act] is effective on passage and approval.

- END -